

## **Ted Noffs Foundation submission to Senate Inquiry into the Social Services Legislation Amendment (Drug Testing Trial) Bill 2019**

### **Executive Summary**

The Ted Noffs Foundation is a not-for-profit drug and alcohol treatment service for socially disadvantaged and disconnected young people. We have been operating for over half a century in the alcohol and other drug (AOD) treatment field and have a number of residential and non-residential services spanning across three states. We strongly condemn the proposed drug testing trial – resurrected under the Social Services Legislation Amendment (Drug Testing Trial) Bill 2019 – for the following reasons:

- Similar trials overseas have proven ineffective
- The lack of available treatment to meet the mutual obligation requirements stipulated in the Bill
- The risk of enhancing income and employment disparities for the target demographic
- The risk of net-widening, increased criminal activity and homelessness for the target demographic

The federal government has re-introduced this legislation despite vocal opposition from experts in medicine, law enforcement, and social services<sup>1</sup>. We are firmly part of this opposition. Working with a marginalised population of young people who are at heightened risk of lifetime substance abuse, homelessness, and criminal activity, we are concerned about the impact the proposed trial will have on their ability to seek employment, access treatment, and improve their outcomes as adults. We know that meaningful engagement with this demographic comes not only from acknowledging the relapsing nature of addiction and the difficulties this cohort has in accessing treatment, but the complexities of poverty and dysfunction that cannot be solved with coercive policy. We work with young people and other service providers to enhance engagement and streamline access to treatment. We believe this Bill does the opposite of that, and will make life more difficult for Australia's most marginalised populations.

### **The failure of trials overseas**

One of the key objectives of the Bill - as outlined in the Explanatory Memorandum - is “to provide new pathways for identifying recipients with drug abuse issues, and facilitate their referral to appropriate treatment”. We dispute the claim that this is a new pathway. Drug testing welfare recipients has been implemented in a number of overseas jurisdictions, including New Zealand and the United States, and evidence demonstrates that it is not a cost-effective mechanism for identifying people with substance abuse issues. Some of this evidence is outlined below.

### New Zealand

New Zealand introduced a drug testing program in 2013 as a pre-employment condition among welfare recipients. The program cost \$1 million, but returned only 22 positive results out of 8,001 unique tests<sup>ii</sup>. These figures had not improved by 2017-18; of 47,115 people who were tested that year, only 170 - or 0.3% - returned a positive test<sup>iii</sup>.

### United States

Over the last year, 13 states spent over \$200,000 on drug testing program. Across those 13 states, only 338 people tested positive<sup>iv</sup>. To give a specific state example, Oklahoma spent over \$52,000 in 2018 to test 698 people, with only 83 testing positive. These programs have been dismissed by experts as costly and ineffective<sup>v</sup>.

### Abandoned UK and Canada trials

Previously-introduced trials have been abandoned in the UK and Canada, on the advice of both medical experts and government advisory committees that drug testing programs of this nature are discriminatory. A Canadian report even went as far as to say that the trial could constitute a violation of human rights<sup>vi</sup>.

### **Lack of available treatment to meet mutual obligation requirements**

We argue that the costs of this trial will far outweigh any benefits, considering the history of previous trials elsewhere. Fewer than half of those seeking treatment are currently able to access it<sup>vii</sup>; that equates to up to 500,000 Australians<sup>viii</sup>. The Minister has stated that a \$10 million treatment fund will be created to “boost drug treatment capacity”<sup>ix</sup>. This is the same amount offered in the previous drug testing trial bills that have been scrapped, and is widely acknowledged in the AOD sector as entirely inadequate. Peak bodies in health and social services estimate that an amount closer to \$1.2 billion would be needed to meet the high level of unmet demand<sup>x</sup>. The Explanatory Memorandum states that “*Where treatment is not immediately available, recipients [who return a positive drug test] will be required to take appropriate action such as being on a waiting list [for treatment]*”. Current waiting lists for public treatment facilities can be up to six months long<sup>xi</sup>. Placing recipients onto these lists will only add to the burden on the sector. Rather than facilitate access, as the Minister claims, this trial will further complicate pathways to treatment.

We strongly recommend that the expenditure currently set aside for the drug testing trial would be better diverted to existing AOD treatment and jobseeker services. Evidence continues to show that treatment provides a greater return on investment for governments<sup>xii</sup>. Rather than complicating pathways to treatment, as this trial will do, the government would be better placed to strengthen existing services and improve the quality of treatment delivery.

### **Income and employment disparities**

Income support is a lifeline for many people. Cutting this lifeline will punish an extremely disadvantaged population. By threatening to restrict or cancel income support, drug testing will likely discourage people from seeking help, and create further anxiety and uncertainty<sup>xiii</sup>. Almost half of the demographic on Newstart are middle-aged<sup>xiv</sup>, compounding the difficulties of finding work.

The justification for this trial is that problematic substance use is a major barrier to employment. We would argue that the lack of available jobs presents a much larger barrier. The latest figures display an ongoing disproportionate ratio between jobseekers and the number of available jobs. In August, the national unemployment rate climbed to 5.3%, the highest level in a year<sup>xv</sup>. Additionally, the job market has been hit with a loss of 15,500 full-time jobs<sup>xvi</sup>. The number of people out of work increased by 4,100 to 716,800, the highest figure since April 2018<sup>xvii</sup>. Aside from the lack of available jobs, we are concerned that the potential for subjection to drug testing will deter people from participating in the job market, particularly when they are faced with the prospect of having their Newstart payments cancelled should they refuse to be tested.

Evidence also shows a significant disparity between the current Newstart allowance and standard of living costs. Australia's Newstart rate is one of the lowest in the OECD<sup>xviii</sup>, and has not been increased for 25 years<sup>xix</sup>. To be able to afford an adequate standard of living, a single unemployed person would need nearly \$100 more than they are currently receiving in Newstart benefits, while a couple would need just over that to afford basic needs<sup>xx</sup>. For families with multiple children, the gap is even wider. It is difficult to see how this policy will assist entry into the job market, given the prospect of welfare quarantining or suspension is likely to act as a major deterrence for those already struggling.

Additionally, the proposed sites for the trial – Canterbury-Bankstown, Logan, and Mandurah – are all areas traditionally associated with higher rates of poverty and unemployment, and substance use. Localising the trial in these areas hinders its ability to be truly representative, and the results will not be able to reliably indicate the feasibility of a nationwide implementation. The use of a data-driven profiling tool<sup>xxi</sup> is discriminating and will likely lead to selection bias.

Economic experts have suggested that increasing Newstart would benefit not only those who are struggling to make ends meet, but the economy as a whole<sup>xxii</sup>. It is therefore illogical that the government would instead invest in a policy that will likely be very expensive and yield little return. Having measures in place that recognise the difficulties that poverty and addiction create for people is an important component of facilitating better treatment delivery, which is why we recommend that the government streamline treatment access by committing funding to strengthen and expand existing services, and raise Newstart to levels that reflect basic standard of living costs.

### **The risks of net-widening and increased criminal activity**

The current structure of the proposed trial - including the targeted drugs and methods of testing - runs the real risk of net-widening. Cannabis, for example, can remain in an individual's system for days or weeks after they have last used it. Testing for its presence within those weeks could yield a positive reading regardless of when the cannabis had been ingested, how much had been ingested, and how frequently. Crucially, a hair, urine or saliva test would not clearly indicate the frequency of cannabis use. It would simply reveal the presence of cannabis in that individual's system. This fails to distinguish between recreational and problematic use of drugs. There has been little forthcoming from the government about the potential issues this would raise. It calls into question whether the extra costs of testing and targeting people who might use drugs recreationally and without issue, have been factored into the proposed trial. By failing to account for the sizeable proportion of the population who engage in recreational drug use, with no indication of dependent behaviour and little effect on their ability to work, the likelihood of net-widening is high.

Further, we are concerned that this Bill will encourage criminal activity in a vulnerable population. The Explanatory Memorandum outlines the obligation for drug test repayment deductions to be made from a person's Newstart or Youth Allowance if they return a positive drug test subsequent to the initial test, with the justification that such management will limit "their capacity to expend their payments on drugs". This places further restrictions on their ability to access an already exiguous amount of money to make ends meet, and could push them further into poverty and potentially crime and/or homelessness<sup>xxiii</sup>.

### **Conclusion**

Welfare is not a desirable option for most people who can work, and welfare dependency remains low; recent figures show government allowance comprises less than 1% of the income of more than half of all Australian households<sup>xxiv</sup>. This trial will unnecessarily target and punish a vulnerable population, it will not effectively identify those with a substance problem, and it will add further strain on an already under-resourced treatment sector.

The Ted Noffs Foundation works with vulnerable young people who are at a higher risk of poverty and homelessness than almost any other demographic. Many young people who use our services also suffer from addiction, largely due to experiences with trauma, mental health issues, and family dysfunction. We are concerned about the impacts of drug testing on this cohort for the following reasons:

- Similar trials have been implemented overseas, and have either been abandoned or failed to produce impactful results
- The lack of available treatment hampers the capacity of recipients to fulfil mutual obligation requirements as stipulated in the Bill, and the proposed \$10 million treatment fund does not even come close to meeting demand

- By making income support contingent on entering treatment, this policy aims to coerce people into treatment, a strategy that is unlikely to be effective
- The lack of forthcoming details about the chosen methods, costs, and locations for testing undermine the ability of this trial to be truly representative and paint a comprehensive picture of the needs of this demographic
- The quarantining and/or suspension of income support widens the gap for an already disadvantaged group, increasing the likelihood of poverty and homelessness

The Ted Noffs Foundation has over 50 years' experience working with disadvantaged, marginalised young people, a group that will be directly impacted by this legislation. We acknowledge that more needs to be done to increase treatment participation and employment retention, however we do not agree that this is the right way to achieve those outcomes. We welcome the opportunity to engage in meaningful dialogue with the federal government, however at present we cannot support the measures in this Bill and call for them to be opposed.

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<sup>i</sup> The Coalition want to drug test welfare recipients. Here's why experts think it's a bad idea. <https://www.theguardian.com/australia-news/2019/sep/10/the-coalition-want-to-drug-test-welfare-recipients-heres-why-experts-think-its-a-bad-idea>

<sup>ii</sup> Is evidence for or against drug testing welfare recipients? It depends on the result we're after. <https://theconversation.com/is-evidence-for-or-against-drug-testing-welfare-recipients-it-depends-on-the-result-were-after-83641>

<sup>iii</sup> The Coalition want to drug test welfare recipients. Here's why experts think it's a bad idea. <https://www.theguardian.com/australia-news/2019/sep/10/the-coalition-want-to-drug-test-welfare-recipients-heres-why-experts-think-its-a-bad-idea>

<sup>iv</sup> What 13 states discovered after spending hundreds of thousands drug testing the poor. <https://thinkprogress.org/states-cost-drug-screening-testing-tanf-applicants-welfare-2018-results-data-0fe9649fa0f8/>

<sup>v</sup> The sham of drug testing for benefits: Walker, Scott and political pandering. <https://www.forbes.com/sites/judystone/2015/02/17/the-sham-of-drug-testing-walker-scott-and-political-pandering/#6715fad459be>

<sup>vi</sup> Macdonald et al. "Drug testing and mandatory treatment for welfare recipients". *International Journal of Drug Policy* 12(3) (2001): 249-257.

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- vii Ritter, A and Stooze, M. "Alcohol and other drug treatment policy in Australia". *Medical Journal of Australia* 204(4) (2016): 138
- viii Are drugs or poor health the largest barrier to getting off welfare? <https://www1.racgp.org.au/newsgp/clinical/are-drugs-or-poor-health-the-largest-barrier-to-ge>
- ix "Not bludgers": Welfare drug tests to hit middle-aged men. <https://www.theaustralian.com.au/nation/politics/not-bludgers-welfare-drug-tests-to-hit-middle-aged-men/news-story/dc2f47cb13ebcfdaebbfa7fc02babe3a?btr=fd5dea592ffbe907225505b9032f9e9a>
- x Drugs test coalition's strength on welfare. <https://www.canberratimes.com.au/story/6382368/drugs-test-coalitions-strength-on-welfare/?cs=14231>
- xi The exorbitant cost of quitting ice. <https://www.news.com.au/lifestyle/health/health-problems/the-exorbitant-cost-of-quitting-ice/news-story/c27f2ea5c846c3871f10dab7f8736349>
- xii The moneyball approach to clobbering drug abuse. [https://www.huffingtonpost.com.au/stephen-jones/a-new-look-at-illicit-drugs-policy\\_b\\_9146804.html](https://www.huffingtonpost.com.au/stephen-jones/a-new-look-at-illicit-drugs-policy_b_9146804.html)
- xiii Welfare drug testing punishes those 'least able to change', former AFP commissioner says. <https://www.theguardian.com/australia-news/2017/sep/13/welfare-drug-testing-punishes-those-least-able-to-change-former-afp-commissioner-says>
- xiv ACOSS. *Faces of Unemployment*. September 2018. [https://www.acoss.org.au/wp-content/uploads/2018/09/ACOSS\\_JA\\_Faces-of-Unemployment\\_14-September-2018\\_web.pdf](https://www.acoss.org.au/wp-content/uploads/2018/09/ACOSS_JA_Faces-of-Unemployment_14-September-2018_web.pdf)
- xv Unemployment lifts to 12-month high as full-time jobs fall. <https://www.smh.com.au/politics/federal/unemployment-lifts-to-12-month-high-as-full-time-jobs-fall-20190919-p52sum.html>
- xvi Unemployment keeps rising to 5.3 per cent in August. <https://www.abc.net.au/news/2019-09-19/unemployment-continues-to-rise-hitting-5.3-per-cent-in-august/11527108>

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xvii Unemployment lifts to 12-month high as full-time jobs fall. <https://www.smh.com.au/politics/federal/unemployment-lifts-to-12-month-high-as-full-time-jobs-fall-20190919-p52sum.html>

xviii 'One of the worst': how Newstart compares to unemployment payments in rest of the world. <https://www.theguardian.com/australia-news/2019/jul/23/one-of-the-worst-how-newstart-compares-to-unemployment-payments-in-rest-of-the-world>

xix Living on Newstart: 'I don't eat every day That saves some money I guess' <https://www.theguardian.com/australia-news/2019/may/15/living-on-newstart-i-dont-eat-every-day-that-saves-some-money-i-guess>

xx Unemployment benefits not enough for recipients to afford basic needs, study finds. <http://www.abc.net.au/news/2017-08-23/newstart-not-enough-to-afford-basic-needs/8835678>

xxi Welfare drug testing: Morrison intensifies the war on the unemployed. <https://www.sydneycriminallawyers.com.au/blog/welfare-drug-testing-morrison-intensifies-the-war-on-the-unemployed/>

xxii Australia's slowing economy: how should the government and Reserve Bank respond? <https://www.theguardian.com/business/2019/sep/21/australias-slowing-economy-how-should-the-government-and-reserve-bank-respond>

xxiii Community groups warn that welfare changes will increase homelessness. <https://probonoaustralia.com.au/news/2018/03/community-groups-warn-welfare-changes-will-increase-homelessness/>

xxiv New ABS data proves it: scares about growing welfare dependency are rubbish. <https://www.theguardian.com/business/grogonomics/2017/sep/13/new-abs-data-proves-it-scares-about-growing-welfare-dependency-are-rubbish>